

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**FEDERAL DEPOSIT INSURANCE  
CORPORATION as RECEIVER  
OF MICHIGAN HERITAGE BANK,**

**Plaintiff,**

**CIVIL ACTION NO. 11-CV-13442**

**vs.**

**DISTRICT JUDGE BERNARD A. FRIEDMAN**

**TIMOTHY J. CUTTLE,**

**MAGISTRATE JUDGE MONA K. MAJZOUB**

**Defendant.**

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**ORDER DIRECTING PLAINTIFF TO PROVIDE BANK EXAMINATION REPORTS  
FOR IN CAMERA REVIEW**

Defendant Timothy J. Cuttle filed a motion to compel the production of documents, seeking an order compelling Plaintiff Federal Deposit Insurance Corporation as Receiver of Michigan Heritage Bank (FDIC-R) to produce all bank examination reports prepared by state or federal regulators pertaining to Michigan Heritage Bank for the period 2005-2009. (Docket no. 12). Plaintiff FDIC-R objects to the request, arguing among other things that the reports are subject to the bank examination privilege. (Docket no. 21). Nonparty Michigan Office of Financial and Insurance Regulations (OFIR), and nonparty The Board of Governors of the Federal Reserve System, also filed responses to the motion after the Court granted their motions to intervene. (Docket nos. 15, 26, 43, 44). Defendant filed reply briefs. (Docket nos. 23, 47). The parties and intervening parties then filed a Statement of Resolved and Unresolved Issues. (Docket no. 51). The motion to compel has been referred to the undersigned for determination pursuant to 28 U.S.C. § 636(b)(1)(A). (Docket no. 13). Having reviewed the motion and related briefs, the Court finds that

it is necessary to conduct an in camera review of the bank examination reports in the FDIC-R's possession to determine whether the bank examination privilege applies. The OFIR has stated that it does not object to the Court conducting such an inspection. (Docket no. 58). Accordingly, the Court will order Plaintiff FDIC-R to provide the relevant bank examination reports to the Court for in camera review.

**IT IS THEREFORE ORDERED** that on or before December 17, 2012 Plaintiff FDIC-R must deliver to this Court copies of all bank examination reports in the FDIC-R's possession, custody, or control which were prepared by state or federal regulators pertaining to Michigan Heritage Bank for the period 2005-2009.

**NOTICE TO THE PARTIES**

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: December 6, 2012

s/ Mona K. Majzoub  
MONA K. MAJZOUB  
UNITED STATES MAGISTRATE JUDGE

**PROOF OF SERVICE**

I hereby certify that a copy of this Order was served upon Counsel of Record on this date.

Dated: December 6, 2012

s/ Lisa C. Bartlett  
Case Manager